



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

EAR INSTITUTE OF TEXAS PA

Respondent Name

TEXAS MUTUAL INSURANCE COMPANY

MFDR Tracking Number

M4-16-2892-01

Carrier's Austin Representative

Box Number 54

MFDR Date Received

May 20, 2016

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "The above claim is indeed a 'network claim' however we feel the 'network' is not the issue. We have been approved for an 'OUT OF NETWORK AUTHORIZATION' by Texas Mutual thereby authorizing services to be rendered to this patient... we feel all requirements were met and services were provided based on the authorizations given."

Amount in Dispute: \$1,195.08

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "Texas Mutual claim [claim #] is in the Texas Star Network... The requestor received a referral to treat the claimant on the date above. The referring doctor... a non-network doctor, was not the treating doctor and had no authority to make the referral. For this reason Texas Mutual declined to issue payment for treatment on 2/9/16."

Response Submitted by: Texas Mutual Insurance Company

SUMMARY OF DISPUTED SERVICE(S)

Date(s) of Service	Disputed Service(s)	Amount In Dispute	Amount Due
February 19, 2016	99214, 92504, 92557, 92567, 92285, 92540, 92546, 92537 and 92548	\$1,195.08	\$768.46

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

- 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
- 28 Texas Administrative Code §134.600 sets out the guidelines for preauthorization, concurrent review, and voluntary certification of healthcare.
- 28 Texas Administrative Code §134.203 sets out the fee guidelines for the reimbursement of workers' compensation professional medical services provided on or after March 1, 2008.
- Texas Insurance Code §1305 applicable to Health Care Certified Networks.
- The insurance carrier reduced payment for the disputed services with the following claim adjustment codes:
 - CAC-B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service
 - CAC-243 – Services not authorized by network/primary care providers
 - 242 – Not treating doctor approved treatment
 - 727 – Provider not approved to treat Texas Star Network claimant

Issue(s)

1. Did the out-of-network healthcare provider meet the requirements of Chapter §1305.006?
2. Did the requestor obtain preauthorization for the disputed services?
3. Did the requestor bill in accordance with 28 Texas Administrative Code §134.203 (b)?
4. Is the requestor entitled to additional reimbursement?

Findings

1. The requestor billed for CPT Codes 99214, 92504, 92557, 92567, 92285, 92540, 92546, 92537 and 92548 rendered on February 19, 2016 to an injured employee enrolled in the Texas Star Network, a certified healthcare network. The insurance carrier's response indicates that the claim is in the Texas Star Network. The requestor seeks a decision from the Division's medical fee dispute resolution (MFDR) section.

The requestor filed this medical fee dispute to the Division asking for resolution pursuant to 28 Texas Administrative Code (TAC) §133.307 titled *MDR of Fee Disputes*. The authority of the Division of Workers' Compensation to resolve matters involving employees enrolled in a certified health care network, is limited to the conditions outlined in the applicable portions of the Texas Insurance Code (TIC), Chapter 1305 and limited application of Texas Labor Code statutes and rules, including 28 Texas Administrative Code §133.307.

Texas Insurance Code §1305.153 (c) provides "Out-of-network providers who provide care as described by Section 1305.006 shall be reimbursed as provided by the Texas Workers' Compensation Act and applicable rules of the commissioner of workers' compensation."

Chapter §1305.006 outlines the insurance carrier's liability for out-of-network healthcare and states, "An insurance carrier that establishes or contracts with a network is liable for the following out-of-network health care that is provided to an injured employee:

- (1) emergency care;
- (2) health care provided to an injured employee who does not live within the service area of any network established by the insurance carrier or with which the insurance carrier has a contract; and
- (3) health care provided by an out-of-network provider pursuant to a referral from the injured employee's treating doctor that has been approved by the network pursuant to Section [1305.103](#).

Review of the documentation submitted by the requestor supports that the requestor obtained an out-of-network approval issued by Jessica Gaskin with Coventry Workers' Comp Services, dated January 4, 2016. The out of network referral states in pertinent part, "The request to provide necessary medical services for the above injured worker as an out of network provider has been reviewed and approved... The extent of treatment to be provided as the approved out-of-network provider is limited to the referral consultation and/or services not available within the network... this approval for OON treatment does not preempt obtaining preauthorization for procedures under the network guidelines."

The Divisions medical fee dispute resolution section, may address disputes involving health care provided to an injured employee enrolled in an HCN, only if the out-of-network health care provider was authorized by the certified network to do so. The Division finds that the requestor has therefore, met the exception outlined in Chapter 1305.006(3). As a result, the disputed services are under the jurisdiction of the Division of Workers' Compensation and therefore, eligible for medical fee dispute resolution. The disputed services are reviewed pursuant to the applicable rules and guidelines, pursuant to Texas Insurance Code §1305.153(c).

The disputed CPT Code 99214 – evaluation and management code is authorized by the out-of-network referral which states in pertinent part, "The extent of treatment to be provided as the approved out-of-network provider is limited to the referral consultation and/or services not available within the network." As a result, CPT Code 99214 is reviewed pursuant to the applicable rules and guidelines.

2. The requestor billed for CPT Codes 99214, 92504, 92557, 92567, 92285, 92540, 92546, 92537 and 92548 rendered on February 19, 2016. The insurance carrier denied the disputed charges with denial reason code(s), "CAC-B7 – This provider was not certified/eligible to be paid for this procedure/service on this date of service", CAC-243 – Services not authorized by network/primary care providers", 242 – Not treating doctor approved treatment" and "727 – Provider not approved to treat Texas Star Network claimant."

The requestor submitted a preauthorization letter issued by Coventry Workers' Comp Services, dated February 2, 2016 preauthorizing CPT Codes, 92540, 99172, 92546, 92548, 92557, 92567 and 92537 and states, "On behalf of Texas Mutual and the Texas Star Network, the requested treatment referenced above has been reviewed by Coventry Health Care Workers' Compensation, Inc. (Coventry), and has been determined to be medically necessary."

28 Texas Administrative Code §134.600(c)(1)(B) states in pertinent part, “(c) The insurance carrier is liable for all reasonable and necessary medical costs relating to the health care: (1) listed in subsection (p) or (q) of this section only when the following situations occur... (B) preauthorization of any health care listed in subsection (p) of this section that was approved prior to providing the health care...”

The division finds that CPT Codes, 92504 and 92285 were not preauthorized as required per 28 Texas Administrative Code §134.600, as a result reimbursement cannot be recommended for these services.

The requestor obtained an out-of-network referral and obtained preauthorized for CPT Codes 92557, 92567, 92540, 92546, 92537 and 92548 and therefore the disputed services are eligible for reimbursement pursuant to the applicable rules and guidelines.

3. 28 Texas Administrative Code §134.203 (b) states in pertinent part, “For coding, billing, reporting, and reimbursement of professional medical services, Texas workers' compensation system participants shall apply the following: (1) Medicare payment policies, including its coding; billing; correct coding initiatives (CCI) edits; modifiers; bonus payments for health professional shortage areas (HPSAs) and physician scarcity areas (PSAs); and other payment policies in effect on the date a service is provided with any additions or exceptions in the rules.”

The division completed NCCI edits to identify potential edit conflicts that may affect reimbursement. The following was identified:

The requestor billed the following CPT Codes on February 19, 2016; 99214, 92504, 92557, 92567, 92285, 92540, 92546, 92537 and 92548. No edit conflicts were identified, as result, the requestor is entitled to reimbursement for the preauthorized CPT codes.

4. 28 Texas Administrative Code §134.203 states in pertinent part, “(c) To determine the MAR for professional services, system participants shall apply the Medicare payment policies with minimal modifications. (1) For service categories of Evaluation & Management, General Medicine, Physical Medicine and Rehabilitation, Radiology, Pathology, Anesthesia, and Surgery when performed in an office setting, the established conversion factor to be applied is \$52.83. For Surgery when performed in a facility setting, the established conversion factor to be applied is \$66.32. (2) The conversion factors listed in paragraph (1) of this subsection shall be the conversion factors for calendar year 2008. Subsequent year's conversion factors shall be determined by applying the annual percentage adjustment of the Medicare Economic Index (MEI) to the previous year's conversion factors, and shall be effective January 1st of the new calendar year...”

Procedure code 92557, rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 0.6 multiplied by the geographic practice cost index (GPCI) for work of 1 is 0.6. The practice expense (PE) RVU of 0.43 multiplied by the PE GPCI of 0.92 is 0.3956. The malpractice RVU of 0.03 multiplied by the malpractice GPCI of 0.822 is 0.02466. The sum of 1.02026 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$57.97.

Procedure code 92567, rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 0.2 multiplied by the geographic practice cost index (GPCI) for work of 1 is 0.2. The practice expense (PE) RVU of 0.2 multiplied by the PE GPCI of 0.92 is 0.184. The malpractice RVU of 0.01 multiplied by the malpractice GPCI of 0.822 is 0.00822. The sum of 0.39222 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$22.29.

Procedure code 92540, rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 1.5 multiplied by the geographic practice cost index (GPCI) for work of 1 is 1.5. The practice expense (PE) RVU of 1.31 multiplied by the PE GPCI of 0.92 is 1.2052. The malpractice RVU of 0.06 multiplied by the malpractice GPCI of 0.822 is 0.04932. The sum of 2.75452 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$156.51.

Procedure code 92546, rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 0.29 multiplied by the geographic practice cost index (GPCI) for work of 1 is 0.29. The practice expense (PE) RVU of 2.58 multiplied by the PE GPCI of 0.92 is 2.3736. The malpractice RVU of 0.03 multiplied by the malpractice GPCI of 0.822 is 0.02466. The sum of 2.68826 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$152.75.

Procedure code 92537 rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 0.6 multiplied by the geographic practice cost index (GPCI) for work of 1 is 0.6. The practice expense (PE) RVU of 0.51 multiplied by the PE GPCI of 0.92 is 0.4692. The malpractice RVU of 0.03 multiplied by the malpractice GPCI of 0.822 is 0.02466. The sum of 1.09386 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$62.15.

Procedure code 92548, rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 0.5 multiplied by the geographic practice cost index (GPCI) for work of 1 is 0.5. The practice expense (PE) RVU of 2.35 multiplied by the PE GPCI of 0.92 is 2.162. The malpractice RVU of 0.03 multiplied by the malpractice GPCI of 0.822 is 0.02466. The sum of 2.68666 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$152.66.

Procedure code 99214, rendered on February 19, 2016, represents a professional service with reimbursement determined per §134.203(c). The Medicare fee is the sum of the geographically adjusted work, practice expense and malpractice values multiplied by the conversion factor. The MAR is calculated by substituting the Division conversion factor. For this procedure, the relative value (RVU) for work of 1.5 multiplied by the geographic practice cost index (GPCI) for work of 1 is 1.5. The practice expense (PE) RVU of 1.42 multiplied by the PE GPCI of 0.92 is 1.3064. The malpractice RVU of 0.1 multiplied by the malpractice GPCI of 0.822 is 0.0822. The sum of 2.8886 is multiplied by the Division conversion factor of \$56.82 for a MAR of \$164.13.

Review of the submitted documentation finds that the requestor is entitled to reimbursement in the amount of \$768.46. As a result, this amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$768.46.

ORDER

Based upon the documentation submitted by the parties and in accordance with the provisions of Texas Labor Code Sections 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services involved in this dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$768.46 plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

_____	_____	December 2, 2016
Signature	Medical Fee Dispute Resolution Officer	Date

YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the Medical Fee Dispute Resolution Findings and Decision** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.